IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2285 OF 2006

Vivekanand Laxman Ballal ... Petitioner

Vs.

Vithal Tukaram Pilankar & Ors. ... Respondents

Mr. S.S. Redekar for the petitioner.

Mr. S.V. Mane, A.P.P. for the State.

CORAM : SMT. RANJANA DESAI, J.

DATED : 9TH NOVEMBER, 2006.

P.C. :-

1. In this writ petition, the petitioner-complainant has challenged order dated 29/9/2006 passed by the Judicial Magistrate, First Class, Chandgad. By the impugned order, the learned judge has allowed the application filed by the accused that the cheque (Ex-28) be sent to the handwriting expert to ascertain whether the cheque is bearing the handwriting of the accused. It appears to be the case of the accused that the cheque in question was issued to his advocate towards the advocate's fees. The said cheque was misused. The name of the

payee and amount was filled up subsequently. According to the accused, the complainant is falsely saying that the accused has issued the said cheque to him. Thus, the accused is admitting his signature but he is denying that the other contents of the cheque are in his handwriting. The learned counsel for the petitioner contended that once it is admitted that the cheque is signed by the accused, the offence is complete and, hence, it was not necessary for the learned judge to send the cheque to the handwriting expert.

2. In the facts and circumstances of the case, in my opinion, no interference is necessary with the impugned order. Considering the defence of the accused, the learned judge has rightly sent the cheque for the opinion of the handwriting expert. The opinion of the handwriting expert will, in no way, take away the complainant's right to canvass his case. In the circumstances, the writ petition will have to be dismissed and is dismissed as such. However, the handwriting expert to whom the said cheque is sent for opinion should submit his opinion at the earliest and at any rate within a period of three months from the date of receipt of this order.

[SMT. RANJANA DESAI, J.]